



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1534/1  
MED:amn

## 2021 SENATE BILL 392

June 10, 2021 - Introduced by Senators FELZKOWSKI, BALLWEG, BERNIER, COWLES, FEYEN, JACQUE, NASS, RINGHAND, L. TAYLOR, WIRCH and DARLING, cosponsored by Representatives PLUMER, CABRAL-GUEVARA, BALDEH, BILLINGS, BROOKS, DOYLE, DUCHOW, GUNDRUM, KURTZ, LOUDENBECK, MOSES, MURPHY, MURSAU, NEYLON, NOVAK, ROZAR, SHELTON, SORTWELL, STEFFEN, SUBECK, SUMMERFIELD, TAUCHEN, THIESFELDT, TITTL and VANDERMEER. Referred to Committee on Insurance, Licensing and Forestry.

1     **AN ACT** *to renumber and amend* 447.05; *to amend* 440.08 (2) (a) (intro.),  
2           447.04 (title), 447.07 (3) (intro.), 447.07 (3) (e), 447.07 (3) (f), 447.07 (3) (g),  
3           447.07 (3) (h), 448.03 (2) (a), 448.21 (1) (a), 450.03 (1) (e) and 462.02 (2) (d); and  
4           **to create** 440.03 (13) (b) 28m., 447.035, 447.04 (3) and 447.05 (1) (b) of the  
5           statutes; **relating to:** certification of expanded function dental auxiliaries,  
6           extending the time limit for emergency rule procedures, providing an  
7           exemption from emergency rule procedures, and granting rule-making  
8           authority.

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### *Analysis by the Legislative Reference Bureau*

This bill establishes a certification program for expanded function dental auxiliaries administered by the Dentistry Examining Board. Under the bill, a person who is not licensed as a dentist or as a dental hygienist may perform the following activities, as delegated and supervised by a licensed dentist, if the person is certified by the examining board as an expanded function dental auxiliary: 1) placing and finishing restoration material after a dentist prepares a tooth for restoration; 2) applying sealants; 3) coronal polishing; 4) impressions; 5) temporizations; 6) packing cord; 7) removing cement from crowns; 8) adjusting dentures and other removable oral appliances; 9) removing sutures and dressings; 10) supragingival scaling; and

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11) applying topical fluoride, fluoride varnish, or similar dental topical agent. The bill authorizes the examining board to promulgate rules for the certification and practice of expanded function dental auxiliaries, but prohibits the examining board from promulgating rules that allow an expanded function dental auxiliary to cut hard or soft tissue, diagnose, or plan treatments.

The examining board may grant a permanent certification as an expanded function dental auxiliary to an applicant who, among other things, has practiced as a dental assistant for a certain period, completes an accredited instructional program, and is proficient in cardiopulmonary resuscitation. Under the bill, the examining board investigates, holds hearings, and makes findings pertaining to violations of the bill and other statutes enforced by the examining board, and the examining board may impose on violators the same penalties that apply under current law to dentists and dental hygienists.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 440.03 (13) (b) 28m. of the statutes is created to read:

2           440.03 (13) (b) 28m. Expanded function dental auxiliary.

3           **SECTION 2.** 440.08 (2) (a) (intro.) of the statutes is amended to read:

4           440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,  
5           444.03, 444.11, 447.04 (2) (c) 2., 447.05 (1) (b), 449.17 (1m) (d), 449.18 (2) (e), 463.10,  
6           463.12, and 463.25 and subch. II of ch. 448, the renewal dates for credentials are as  
7           follows:

8           **SECTION 3.** 447.035 of the statutes is created to read:

9           **447.035 Certification; expanded function dental auxiliaries.** (1) In this  
10          section, "auxiliary" means an expanded function dental auxiliary.

11          (2) Notwithstanding s. 447.03 (1) and (2), a certification to practice as an  
12          auxiliary granted under s. 447.04 (3) shall permit the holder to perform all of the  
13          following as delegated and supervised by a dentist:

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- 1 (a) Placement and finishing of restoration material after the dentist prepares  
2 a tooth for restoration.
- 3 (b) Application of sealants.
- 4 (c) Coronal polishing.
- 5 (d) Impressions.
- 6 (e) Temporizations.
- 7 (f) Packing cord.
- 8 (g) Removal of cement from crowns.
- 9 (h) Adjustment of dentures and other removable oral appliances.
- 10 (i) Removal of sutures and dressings.
- 11 (j) Supragingival scaling.
- 12 (k) Application of topical fluoride, fluoride varnish, or similar dental topical  
13 agent.
- 14 **(3)** (a) The examining board shall, subject to pars. (b) and (c), promulgate rules  
15 for the certification and practice of auxiliaries.
- 16 (b) The rules promulgated under par. (a) shall do all of the following:
- 17 1. Require an applicant to the accredited instructional program described in  
18 subd. 2. to demonstrate in his or her application that the individual satisfies one of  
19 the following criteria in order to be permitted to enroll in the instructional program:
- 20 a. Has completed at least 1,000 hours practicing as a dental assistant and holds  
21 the certified dental assistant credential issued by the Dental Assisting National  
22 Board, Inc., or its successor.
- 23 b. Has completed at least 2,000 hours practicing as a dental assistant, as  
24 verified by the supervising licensed dentist.

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1           2. Require an applicant for certification under s. 447.04 (3) to demonstrate to  
2 the satisfaction of the examining board that the applicant has successfully completed  
3 an accredited instructional program that provides training in practice as an  
4 auxiliary and requires no fewer than 70 hours of classroom instruction.

5           3. Require a dentist who delegates a procedure to an auxiliary certified under  
6 s. 447.04 (3) to remain on the premises where the auxiliary is performing the  
7 procedure until the procedure is complete and the dentist has verified that the  
8 procedure has been performed successfully.

9           4. Require each auxiliary to maintain current proficiency in cardiopulmonary  
10 resuscitation, including the use of an automated external defibrillator achieved  
11 through instruction provided by an individual, organization, or institution of higher  
12 education approved under s. 46.03 (38) to provide such instruction.

13           (c) The rules promulgated under par. (a) may not permit an auxiliary to perform  
14 any of the following:

15           1. Cutting of hard or soft tissue.

16           2. Diagnosis.

17           3. Treatment planning.

18           **SECTION 4.** 447.04 (title) of the statutes is amended to read:

19           **447.04 (title) Licensure; certification.**

20           **SECTION 5.** 447.04 (3) of the statutes is created to read:

21           **447.04 (3) EXPANDED FUNCTION DENTAL AUXILIARIES.** The examining board shall  
22 grant a certification to practice as an expanded function dental auxiliary to an  
23 individual who does all of the following:

24           (a) Pays the fee specified in s. 440.05 (1).

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1 (b) Submits evidence satisfactory to the examining board that he or she has  
2 completed the accredited instructional program required under s. 447.035 (3) (b) 2.

3 (c) Submits evidence satisfactory to the examining board that he or she has  
4 current proficiency in cardiopulmonary resuscitation, including the use of an  
5 automated external defibrillator achieved through instruction provided by an  
6 individual, organization, or institution of higher education approved under s. 46.03  
7 (38) to provide such instruction.

8 **SECTION 6.** 447.05 of the statutes is renumbered 447.05 (1) (a) and amended  
9 to read:

10 447.05 (1) (a) ~~Renewal~~ Except as provided in par. (b), renewal applications  
11 shall be submitted to the department on a form provided by the department on or  
12 before the applicable renewal date specified under s. 440.08 (2) (a) and shall include  
13 the applicable renewal fee determined by the department under s. 440.03 (9) (a).

14 **(2)** The examining board may not renew a license to practice dentistry unless  
15 the applicant for renewal attests that he or she has complied with s. 447.056, that  
16 he or she has current proficiency in cardiopulmonary resuscitation, ~~including~~ and  
17 that he or she has current proficiency in the use of an automated external  
18 defibrillator achieved through instruction provided by an individual, organization,  
19 or institution of higher education approved under s. 46.03 (38) to provide such  
20 instruction.

21 **(3)** The examining board may not renew a license to practice dental hygiene  
22 unless the applicant for renewal attests that he or she has complied with s. 447.055  
23 and any rules promulgated by the examining board under s. 447.055, that he or she  
24 has a current certification in cardiopulmonary resuscitation, and that he or she has  
25 current proficiency in the use of an automated external defibrillator achieved

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1 through instruction provided by an individual, organization, or institution of higher  
2 education approved under s. 46.03 (38) to provide such instruction.

3 **SECTION 7.** 447.05 (1) (b) of the statutes is created to read:

4 447.05 (1) (b) A certification to practice as an expanded function dental  
5 auxiliary granted under s. 447.04 (3) is permanent unless revoked and not subject  
6 to periodic renewal.

7 **SECTION 8.** 447.07 (3) (intro.) of the statutes is amended to read:

8 447.07 (3) (intro.) Subject to the rules promulgated under s. 440.03 (1), the  
9 examining board may make investigations and conduct hearings in regard to any  
10 alleged action of any dentist ~~or~~, dental hygienist, or expanded function dental  
11 auxiliary, of a mobile dentistry program registrant, or of any other person it has  
12 reason to believe is engaged in or has engaged in the practice of dentistry or dental  
13 hygiene, or the operation of a mobile dentistry program, in this state, and may, on  
14 its own motion, or upon complaint in writing, reprimand any dentist ~~or~~, dental  
15 hygienist, or expanded function dental auxiliary who is licensed or certified under  
16 this chapter, or any mobile dentistry program registrant, or deny, limit, suspend, or  
17 revoke his or her license or certificate, or the registration of the mobile dentistry  
18 program registrant, if it finds that the dentist, dental hygienist, expanded function  
19 dental auxiliary, or mobile dentistry program registrant has done any of the  
20 following:

21 **SECTION 9.** 447.07 (3) (e) of the statutes is amended to read:

22 447.07 (3) (e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a  
23 crime, the circumstances of which substantially relate to the practice of dentistry or  
24 dental hygiene, the practice of an expanded function dental auxiliary, or the  
25 operation of a mobile dentistry program.

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1           **SECTION 10.** 447.07 (3) (f) of the statutes is amended to read:

2           447.07 (3) (f) Violated this chapter or any federal or state statute or rule that  
3 relates to the practice of dentistry or, dental hygiene, or an expanded function dental  
4 auxiliary, or the operation of a mobile dentistry program.

5           **SECTION 11.** 447.07 (3) (g) of the statutes is amended to read:

6           447.07 (3) (g) Subject to ss. 111.321, 111.322 and 111.34, practiced dentistry or  
7 dental hygiene or as an expanded function dental auxiliary while his or her ability  
8 was impaired by alcohol or other drugs.

9           **SECTION 12.** 447.07 (3) (h) of the statutes is amended to read:

10           447.07 (3) (h) Engaged in conduct that indicates a lack of knowledge of, an  
11 inability to apply or the negligent application of, principles or skills of dentistry or  
12 dental hygiene or the practice of an expanded function dental auxiliary.

13           **SECTION 13.** 448.03 (2) (a) of the statutes is amended to read:

14           448.03 (2) (a) Any person lawfully practicing within the scope of a license,  
15 permit, registration, certificate, or certification granted to practice midwifery under  
16 subch. XIII of ch. 440, to practice professional or practical nursing or  
17 nurse-midwifery under ch. 441, to practice chiropractic under ch. 446, to practice  
18 dentistry or dental hygiene or as an expanded function dental auxiliary under ch.  
19 447, to practice optometry under ch. 449, to practice acupuncture under ch. 451 or  
20 under any other statutory provision, or as otherwise provided by statute.

21           **SECTION 14.** 448.21 (1) (a) of the statutes is amended to read:

22           448.21 (1) (a) The practice of dentistry or dental hygiene within the meaning  
23 of ch. 447 or the practice of an expanded function dental auxiliary under s. 447.035.

24           **SECTION 15.** 450.03 (1) (e) of the statutes is amended to read:

